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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,210	04/02/2001	Reiner Kraft	ARC920010034US1	2722

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SAMUEL A. KASSATLY LAW OFFICE
20690 VIEW OAKS WAY
SAN JOSE, CA 95120

EXAMINER

HILLERY, NATHAN

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/825,210	Applicant(s) KRAFT, REINER	
	Examiner Nathan Hillery	Art Unit 2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-11 and 15-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-11 and 15-26 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: Amendment filed on 9/27/04.
2. Claims 1, 5 – 11, 15 – 26 are pending in the case. Claims 1, 11, and 20 are independent.
3. The rejection of claims 1 – 20 under 35 U.S.C. 103(a) as being unpatentable has been withdrawn as necessitated by amendment.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 20 – 26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 20 – 26 recite non-functional descriptive material, specifically a computer program product not tangibly embodied to a computer. Consequently, the claimed invention does not require the technical or useful arts and, thus, fails to define patentable subject matter. The rejection to these claims may be overcome if an inference to some form of hardware is claimed.
6. Further, to expedite a complete examination of the instant application the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Objections

7. Claim 20 is objected to because of the following informalities: awkward language, i.e. "a plurality of for associating" is unclear. Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 5 – 7, 10, 11, 15 – 17, 20 – 23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farber et al. (US 6654807 B2) and further in view of Heninger et al. (US 6470349 B1).

10. ***Regarding independent claim 1***, Farber et al. teach that the client gets the modified resource identifier from the reflector and makes a request for the particular resource from the repeater designated in the modified resource identifier. When the repeater gets the client's request, it responds by returning the requested resource to the client. If the repeater has a local copy of the resource then it returns that copy, otherwise it forwards the request to the origin server to get the resource, and saves a local copy of the resource in order to serve subsequent requests (Column 3, lines 18 – 27) and that if the particular requested resource itself can contain identifiers of other resources, then the resource may be rewritten (before being provided to the client). In particular, the resource is rewritten to replace at least some of the resource identifiers contained therein with modified resource identifiers designating a repeater instead of the origin server. As a consequence of this rewriting process, when the client requests other resources based on identifiers in the particular requested resource, the client will make those requests directly to the selected repeater, bypassing the reflector and origin

server entirely (Column 3, lines 39 – 49), which provide for **defining contextual metadata** (modified resource identifier) **of the source document** (resource on origin server), **wherein the contextual metadata includes a location of the source document; identifying a target document** (rewritten resource); **bundling the target document, and the contextual metadata of the source document; and saving a bundled target document as the destination document** (local copy). Farber et al. teach that if the repeater has a local copy of the resource then it returns that copy, otherwise it forwards the request to the origin server to get the resource, and saves a local copy of the resource in order to serve subsequent requests (Column 3, lines 23 – 27) and that if the particular requested resource itself can contain identifiers of other resources, then the resource may be rewritten (before being provided to the client). In particular, the resource is rewritten to replace at least some of the resource identifiers contained therein with modified resource identifiers designating a repeater instead of the origin server (Column 3, lines 39 – 44), which provide for **identifying the target document by a content and contextual data** and **merging the contextual metadata of the source document and the contextual data of the target document**. Farber et al. do not explicitly teach **bundling ... as attributes of the target document** or **merging ... as integral attributes of the target document**. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to do so using the invention of Farber et al. because the skilled artisan would want to ensure that the resource and the modified resource identifier are appropriately matched so as to provide a better way of processing resource requests in a computer

network (Column 3, lines 1 and 2) as further evidenced by Farber et al. teaching that *...the first match identifies the attributes for the resource, namely repeatable or local. If there is no match in the rule base, a default attribute is used ...*(Column 8, lines 23 – 25). Also, Farber et al. do not explicitly teach **synchronizing**. However, Heninger et al. do teach that in the case of caches, it is also useful to generate a source command to be placed in your target script referring back to the source script. This ensures that the target stays synchronized with the source (Column 16, lines 16 – 20), which provides for **automatically synchronizing the destination document to the target document**. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the invention of Farber et al. with that of Heninger et al. because such a combination would provide the users of Farber et al. with a server side scripting language and programming tool designed to simplify programming for web pages using databases or other dynamic information (Column 2, lines 49 – 52).

11. **Regarding dependent claims 5 – 7**, Farber et al. teach that *each reflector has its own rule base, which is manually configured by the reflector operator. B3. To reflect a request, (to serve a request locally go to B4), as shown in FIG. 4, the reflector determines (B3-1) the best repeater to reflect the request to, as described in detail below. The reflector then creates (B3-2) a new resource identifier (URL) (using the requested URL and the best repeater) that identifies the same resource at the selected repeater. It is necessary that the reflection step create a single URL containing the URL of the original resource, as well as the identity of the selected repeater. A special form of URL is created to provide this information. This is done by creating a new URL as*

*follows: D1. Given a repeater name, scheme, origin server name and path, create a new URL (Column 8, lines 25 – 42), which provide for **defining the address of the source document, identifying a URL of the source document** and **defining a navigation path from the source document to the target document**.*

12. **Regarding dependent claim 10**, Farber et al. teach that *this invention provides a way for servers in a computer network to off-load their processing of requests for selected resources by determining a different server (a "repeater") to process those requests. The selection of the repeater can be made dynamically, based on information about possible repeaters. If a requested resource contains references to other resources, some or all of these references can be replaced by references to repeaters* (Column 2, lines 59 – 67), which provide for **saving the destination document on a networked data repository**.

13. **Regarding independent claim 11**, the claim incorporates substantially similar subject matter as claim 1, and is rejected along the same rationale.

14. **Regarding dependent claim 15**, the claim incorporates substantially similar subject matter as claim 5, and is rejected along the same rationale.

15. **Regarding dependent claim 16**, the claim incorporates substantially similar subject matter as claim 6, and is rejected along the same rationale.

16. **Regarding dependent claim 17**, the claim incorporates substantially similar subject matter as claim 7, and is rejected along the same rationale.

17. **Regarding independent claim 20**, the claim incorporates substantially similar subject matter as claim 1, and is rejected along the same rationale.

18. **Regarding dependent claim 21**, the claim incorporates substantially similar subject matter as claim 5, and is rejected along the same rationale.

19. **Regarding dependent claim 22**, the claim incorporates substantially similar subject matter as claim 6, and is rejected along the same rationale.

20. **Regarding dependent claim 23**, the claim incorporates substantially similar subject matter as claim 7, and is rejected along the same rationale.

21. **Regarding dependent claim 26**, the claim incorporates substantially similar subject matter as claim 10, and is rejected along the same rationale.

22. Claims 8, 9, 18, 19, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farber et al. (US 6654807 B2) and further in view of Heninger et al. (US 6470349 B1) as applied to claims 1, 5 – 7, 10, 11, 15 – 17, 20 – 23, and 26 above, and further in view of Lumsden (as cited by applicant).

23. **Regarding dependent claims 8 and 9**, Farber et al. do not and Heninger et al. may not explicitly teach **input parameters or input search query**. However, Lumsden teaches that *the user fills out the form, specifying the user's search parameters or criteria, which are often in the form of keywords. The user's search parameters or criteria are intended to define a subset of documents from the Internet which contain information which the user wants to review. The desired documents may be on any of a plurality of databases associated with any of the sites (document servers) linked together by the Internet. The user completes the search form and forwards the completed search form to the search server 62 via the network 64 (Step 102) (Column*

5, line 61 – Column 6, line 3), which provide for ***defining input parameters required to generate the target document and defining an input search query***. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the invention of Farber et al. and Heninger et al. with that of Lumsden because such a combination would provide the users of Farber et al. and Heninger et al. with a *software implemented process associated with a server employed to provide search information in response to a request from a user at a client for documents available on the Internet matching search criteria* (Column 2, lines 50 – 54).

24. ***Regarding dependent claim 18***, the claim incorporates substantially similar subject matter as claim 8, and is rejected along the same rationale.

25. ***Regarding dependent claim 19***, the claim incorporates substantially similar subject matter as claim 9, and is rejected along the same rationale.

26. ***Regarding dependent claim 24***, the claim incorporates substantially similar subject matter as claim 8, and is rejected along the same rationale.

27. ***Regarding dependent claim 25***, the claim incorporates substantially similar subject matter as claim 9, and is rejected along the same rationale.

Response to Arguments

28. Applicant's arguments filed 9/27/04 have been fully considered but they are not persuasive.

29. In response to Applicant's argument that the limitations not explicitly taught by Farber et al. are not rendered obvious based on knowledge known to those with ordinary skill in the art, it should be noted that Farber et al. explicitly teach that *the*

reflector 108 analyzes the request to determine whether or not to reflect the request. To do this, first the reflector determines whether the sender (client 106) is a browser or a repeater. Requests issued by repeaters must be served locally by the origin server 102. This determination can be made by looking up the network (IP) address of the sender in a list of known repeater network (IP) addresses. Alternatively, this determination could be made by attaching information to a request to indicate that the request is from a specific repeater, or repeaters can request resources from a special port other than the one used for ordinary clients. B2. If the request is not from a repeater, the reflector looks up the requested resource in a table (called the "rule base") to determine whether the resource requested is "repeatable". Based on this determination, the reflector either reflects the request (B3, described below) or serves the request locally (B4, described below). The rule base is a list of regular expressions and associated attributes ...The resource identifier (URL) for a given request is looked up in the rule base by matching it sequentially with each regular expression. The first match identifies the attributes for the resource, namely repeatable or local. If there is no match in the rule base, a default attribute is used. Each reflector has its own rule base, which is manually configured by the reflector operator. B3. To reflect a request, (to serve a request locally go to B4), as shown in FIG. 4, the reflector determines (B3-1) the best repeater to reflect the request to, as described in detail below. The reflector then creates (B3-2) a new resource identifier (URL) (using the requested URL and the best repeater) that identifies the same resource at the selected repeater. It is necessary that the reflection step create a single URL containing the URL of the original resource, as well as the identity of the

selected repeater. A special form of URL is created to provide this information (Column 7, line 64 – Column 8, line 39). The teachings cited not only bolster the Office's motivation of obviousness concerning "ensuring that the resource and the modified resource identifier are appropriately matched so as to provide a better way of *processing resource requests in a computer network* (Column 3, lines 1 and 2)" (bullet 6 of this OA, last sentence) by teaching that *...the first match identifies the attributes for the resource, namely repeatable or local. If there is no match in the rule base, a default attribute is used ...* (Column 8, lines 23 – 25) but also addresses the limitations not explicitly taught but rendered obvious by Farber et al.

30. In response to applicant's argument that *this feature is not taught in the cited references, whether considered individually or in combination with each other, and none of the references suggests such combination* (p 16, second paragraph), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

31. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for the rejection is found in the references.

Conclusion

32. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Hillery whose telephone number is (571) 272-4091. The examiner can normally be reached on M - F, 10:30 a.m. - 7:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2176

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NH


JOSEPH FIELD
SUPERVISORY PATENT EXAMINER